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May 18, 2010

Mr. Rodney R. McInnis, Regional Administrator  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Southwest Region  
502 West Ocean Boulevard, Suite 4200  
Long Beach, CA 90802-4213

**Re: Request for a Six-Month Time Extension for Completion of a Final Habitat  
Expansion Plan under the Habitat Expansion Agreement for Central Valley Spring-  
run Chinook Salmon and California Central Valley Steelhead**

Dear Mr. McInnis:

The purpose of this letter is to request a six-month extension of time for the Licensees to submit a Final Habitat Expansion Plan (HEP). As required, the Department of Water Resources and Pacific Gas and Electric Company (Licensees) timely submitted a Draft Habitat Expansion Plan on November 20, 2009 for a 90-day comment period. The HEP was submitted to the signatories to the Habitat Expansion Agreement (HEA) and directly affected third parties. The Draft HEP presented two recommended groups of actions: the Lower Yuba River Actions and the Three Creek Actions. Following receipt of comments, the Licensees were to develop a Final HEP that includes a response to those comments. This final HEP was to be submitted to National Marine Fisheries Service for approval.

The Licensees received comments from most signatories, some of the directly affected third parties, and additional interested parties for a total of 18 responses. These comments have been posted to the HEA website ([www.sac-basin-hea.com](http://www.sac-basin-hea.com)). While many comments supported either or both of the recommended actions, there were significant comments raised regarding the interpretation and application of the HEA terms and conditions. By a letter dated February 18, 2010, National Marine Fisheries Service (NMFS) submitted extensive comments in the attached document, "Response of NOAA's National Marine Fisheries Service (NMFS) to the November 2009 Draft Habitat Expansion Plan submitted by the California Department of Water Resources and Pacific Gas and Electric Company." Comments included a recommendation for a formal time extension of six months to complete the Final HEP to allow time for NMFS to confer with the Licensees and other parties regarding its opinion that the Draft HEP is deficient

and to allow NMFS to introduce new information and another alternative that NMFS believes will meet the requirements of the HEA. Section 5 of the HEA allows for the Licensees or NMFS to request an extension of time from each other to achieve the deadlines specified in the HEA and further states that the request shall be granted if good cause exists. While there are several comments and conclusions presented in NMFS response with which the Licensees do not agree, we do agree that an extension of time is necessary to address the comments and work toward developing a Final HEP that NMFS can approve.

As you know, the Licensees met with NMFS staff on April 28, 2010 to discuss NMFS comments on the Draft HEP, and discuss a strategy and goals for the proposed six-month extension. On May 5, 2010, a meeting of the principals from NMFS and the Licensees was held to further discuss the proposed six-month extension. During these meetings, the Licensees and NMFS agreed that the primary areas of significant concern identified in NMFS comment letter include:

- The eligibility of actions recommended in Draft HEP.
- The methodology used to estimate the contribution to the Habitat Expansion Threshold.
- The application of evaluation, selection and approval criteria specified in the HEA (particularly with regard to definitions, weighting, and scoring).

The Licensees and NMFS agreed that additional time is needed to: address these and other concerns; further develop the currently recommended actions in response to comments received and new information obtained since the Draft HEP was issued; and evaluate new information on an Upper Yuba River action. To achieve these, we agreed to the following actions during the six-month extension:

- The Licensees will notify HEA signatories of the six-month extension as required by the HEA.
- The Licensees will review with NMFS the methodology used to estimate the contributions to the HET as described in Chapter 4 and Appendix E of the Draft HEP.
- The Licensees will further develop the actions recommended in the Draft HEP informed by: comments received; conferring with the HEA signatories, directly affected third parties, and other interested parties; and incorporating additional information that becomes available during the six-month period.
- NMFS will clarify a proposed action in the Upper Yuba River watershed based on new and anticipated information it is developing. The Licensees will re-evaluate the proposed Upper Yuba action, in accordance with the terms and conditions of the HEA, and determine if it should be included as a recommended action.
- The principals from NMFS and the Licensees will meet in August to review the progress made on determining actions for the Final HEP.
- The Licensees will prepare responses to comments received on the Draft HEP and prepare a Final HEP for anticipated submittal by November 20, 2010.

In conclusion, the Licensees agree with NMFS recommendation for a time extension and hereby formally request an additional six months to complete the Final HEP. This will extend the due date for the Final HEP to November 20, 2010.

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The Licensees look forward to conferring with NMFS and the other HEA signatories, as well as other stakeholders throughout the six-month time extension, as we work toward preparing a Final HEP to achieve the goal of the HEA to provide the most-promising and cost-effective habitat expansion actions.

Sincerely,



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California Department of Water Resources



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